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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/698,952	10/31/2003	Ari Moskowitz	151P11332US01	8828
54228	7590	07/18/2006	EXAMINER	
IPLM GROUP, P.A. POST OFFICE BOX 18455 MINNEAPOLIS, MN 55418			MEHTA, BHISMA	
			ART UNIT	PAPER NUMBER
			3767	

DATE MAILED: 07/18/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/698,952

Applicant(s)

MOSKOWITZ, ARI

Examiner

Bhisma Mehta

Art Unit

3767

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 05 July 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) 10-18 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 November 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>2/2/2004</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Applicant's election with traverse of Group I in the reply filed on July 5, 2006 is acknowledged. The traversal is on the ground(s) that the two inventions are classified in Class 604 and should be searchable together. This is not found persuasive because Group I is drawn to the catheter and seal which is classified in 604/539 and Group II is drawn to the method of catheterizing which is classified in 604/500 and, therefore, are not searchable together.

The requirement is still deemed proper and is therefore made FINAL.

2. Claims 10-18 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on July 5, 2006.

Drawings

3. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the collar, the flange, and the folded portion of the dural seal patch must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate

prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

4. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: reference character 57 (line 14, page 10). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

5. The disclosure is objected to because of the following informalities: The sentences beginning "However, if blockages..." (lines 10-12, page 1), "The amount that..." (lines 13-16, page 8), and "A dural patch..." (lines 2-4, page 10) contain grammatical errors and/or are unclear. Appropriate correction is required.

Claim Objections

6. Claims 5-8 are objected to because of the following informalities: Claim 5 is incomplete. Claims 6-8 recite the limitation "said burr hole" in lines 1-2. There is insufficient antecedent basis for this limitation in these claims. Appropriate correction is required.

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 1-7 and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Nussbaum (U.S. Patent 5,352,207). In Figure 1, Nussbaum shows a catheter (1) with a lumen (line 17, column 4) and a dural seal patch (20) with a hole through which the catheter passes. The catheter is adapted for placement through a hole in the dura of a

Art Unit: 3767

patient and the dural seal patch is adapted to be placed proximate the dura. As to claims 2 and 5, in Figure 3, Nussbaum shows a collar or flange (24b) which is adapted to be placed around the catheter and over the dural seal patch (222b) (see lines 26-42 of column 4). As to claims 3 and 4, in lines 2-12 of column 4, Nussbaum teaches a collagen seal patch (20) which forms a tight seal against the catheter. As to claims 6 and 7, the dural seal patch is sized to fit in the burr hole (18) and is larger than the burr hole. As to claim 9, in lines 47-50 of column 4, Nussbaum teaches that the dural seal patch is slidable along the catheter.

9. Claims 1, 2, 5, and 6-9 are rejected under 35 U.S.C. 102(b) as being anticipated by Chopra (Pub. No. 2005/0049634). In Figures 5 and 6, Chopra discloses a catheter (60) with a lumen through which fluid can be introduced (see paragraph [0037]) and a dural seal patch (110) with a hole (122) through which the catheter passes. The catheter is adapted for placement through a hole in the dura of a patient and the dural seal patch is adapted to be placed proximate the dura. As to claims 2 and 5, Chopra shows a collar or flange (128) which is adapted to be placed around the catheter and over the dural seal patch (110) (see lines 14-18 of paragraph [0023]). As to claims 6 and 7, the dural seal patch is sized to fit in the burr hole (50) and is larger than the burr hole. As to claim 8, a portion (124a) of the dural seal patch that extends beyond the burr hole (50) is folded into the burr hole. As to claim 9, the dural seal patch is slidable along the catheter as disclosed in paragraphs [0031] and [0032] where Chopra teaches that the dural seal patch is advanced over a needle or catheter (60).

Art Unit: 3767

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Zhu (Pub. No. US 2002/0072767) and Knute et al (U.S. Patent No. 4,903,707) teach a catheter and a dural seal patch.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bhisma Mehta whose telephone number is 571-272-3383. The examiner can normally be reached on Monday - Friday, 7:30 am to 3:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Sirmons can be reached on 571-272-4965. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


BM

KEVIN C. SIRMONS
SUPERVISORY PATENT EXAMINER

